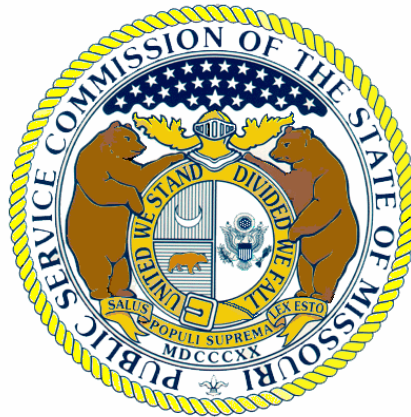


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



In the Matter of the Application of Consolidated Public)
Water Supply District No. 1 of Boone County, Missouri,)
and the City of Ashland, Missouri, for Approval of a) **Case No. WO-2005-0242**
Territorial Agreement Concerning Territory)
Encompassing Part of Boone County, Missouri)

REPORT AND ORDER

Issue Date: April 21, 2005

Effective Date: May 1, 2005

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Territorial Agreement Concerning Territory)
Encompassing Part of Boone County, Missouri)

APPEARANCES

J. Turner Jones, Jones, Schneider & Bartlett, LLC, 11 North Seventh Street, Columbia, Missouri 65201, for Consolidated Public Water Supply District No. 1 of Boone County, Missouri.

David G. Bandré, Bandré.Hunt.Snyder, LLC, P.O. Box 1774, 225 Madison Street, 2nd Floor, Jefferson City, Missouri 65102, for the City of Ashland, Missouri.

M. Ruth O'Neill, Legal Counsel, Office of the Public Counsel, Governor Office Building, Post Office Box 2230, Jefferson City, Missouri 65102, for Office of the Public Counsel and the public.

Cliff E. Snodgrass, Senior Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

REGULATORY LAW JUDGE: Morris L. Woodruff, Judge.

REPORT AND ORDER

Syllabus: This Report and Order approves the joint application for approval of a territorial agreement, and approves the Unanimous Stipulation and Agreement of the parties regarding that agreement.

Procedural History

On January 25, 2005, the City of Ashland, Missouri, and Consolidated Public Water Supply District No. 1 of Boone County, Missouri, filed a verified application for approval of a territorial agreement. On January 26, the Commission issued an order directing that notice of the filing be given to the general public and to other potentially interested parties. That order also set an intervention deadline of February 15. There were no requests to intervene. On April 1, the parties filed a Unanimous Stipulation and Agreement, asking that the Commission approve the territorial agreement and indicating the parties believe that no evidentiary hearing is needed. The Commission's Staff filed suggestions in support of the stipulation and agreement on April 8.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

The Applicants:

The City of Ashland, Missouri, is a fourth class city, existing under Chapter 79, RSMo 2000. The City owns and operates a water system within its boundaries in Boone County. The City's principal office is located at 109 East Broadway, Ashland, Missouri 65010.

Consolidated Public Water Supply District No. 1 of Boone County, Missouri, is a public water supply district organized under Chapter 247, RSMo 2000. The District provides water service to customers located within the District's water service area in Boone, Callaway, and Howard Counties in Missouri. The District's principal place of business is located at 1500 North Seventh Street, Columbia, Missouri 65201.

The Proposed Territorial Agreement:

In their joint application, the City and the District submit a territorial agreement for the Commission's approval. The territorial agreement specifically designates the boundaries of the water service areas of the District and the City. The agreement also sets forth any and all powers granted to the District by the City to operate within the corporate boundaries of the City and any and all powers granted to the City to operate within the boundaries of the District.

The water service of existing customers will not be changed by the agreement. However, some customers of the District who reside within the water service area of the City may, at some time in the future, be switched to service from the City. District customers who use 6,000 gallons of water per month would realize a savings of approximately \$3 per month if their service is eventually changed to the City. The territorial agreement does not modify any rights that the District's customers currently have regarding such a transfer.

The Unanimous Stipulation and Agreement

On April 1, the City and the District, along with the Staff of the Commission and the Office of the Public Counsel, filed a Unanimous Stipulation and Agreement requesting that the Commission approve the proposed territorial agreement. The stipulation states that the territorial agreement will allow the City and the District to avoid wasteful duplication of water services within the affected service areas. The stipulation also indicates that the territorial agreement will improve the ability of the City and the District to plan for future water service, will enable customers to know who will provide their water service, and will establish a method for the City and the District to amend their service territories in the future.

The parties to the stipulation agree that the joint application and the territorial agreement meet the requirements of the applicable statute as well as applicable Commission rules, and that the territorial agreement is not detrimental to the public interest.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Territorial Agreement

Section 247.172, RSMo 2000, gives the Commission jurisdiction over territorial agreements concerning the sale and distribution of water. Under Section 247.172.4, the Commission may approve such a territorial agreement if the agreement is not detrimental to the public interest. Based on the agreement of the parties expressed in the stipulation and agreement, the Commission finds that the territorial agreement will not be detrimental to the public interest.

The Necessity for an Evidentiary Hearing

In the stipulation and agreement, the parties agree that the Commission does not need to hold an evidentiary hearing before approving the stipulation and agreement and the territorial agreement. Although Section 247.172.4, RSMo 2000, provides that the Commission is to hold an evidentiary hearing to determine whether a territorial agreement is to be approved, the parties contend that no hearing is necessary where the case has been resolved by the filing of a unanimous stipulation and agreement, and where no other party has requested a hearing. The Commission agrees that pursuant to the holding of State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of

Missouri,¹ the requirement for a hearing was met when the opportunity for hearing was provided and no proper party requested the opportunity to present evidence.

Decision

Having considered the Joint Application and Unanimous Stipulation and Agreement, the Commission concludes that the territorial agreement between the City of Ashland and Consolidated Public Water Supply District No. 1 of Boone County, Missouri, is in the public interest and should be approved. The Commission will also approve the Joint Application and the Unanimous Stipulation and Agreement. Furthermore, the Commission concludes that no evidentiary hearing is required.

IT IS THEREFORE ORDERED:

1. That the joint application for approval of a territorial agreement, filed by the City of Ashland and Consolidated Public Water Supply District No. 1 of Boone County, Missouri, is approved.
2. That the Unanimous Stipulation and Agreement entered into by City of Ashland, Consolidated Public Water Supply District No. 1 of Boone County, Missouri, the Staff of the Commission, and the Office of the Public Counsel is approved.
3. That the territorial agreement entered into by the City of Ashland and Consolidated Public Water Supply District No. 1 of Boone County, Missouri, is approved.
4. That this order shall become effective on May 1, 2005.

¹ 776 S.W. 2d 494 (Mo. App. W.D. 1989).

5. That this case may be closed on May 2, 2005.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Davis, Chm., Murray, Gaw, Clayton and Appling, CC.,
concur and certify compliance with the provisions
of Section 536.080, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 21st day of April, 2005.